

REMARKS

The Office Action of July 17, 2007 has been received and its contents carefully considered.

The Office Action rejects all of the claims under 35 USC 101 as being directed to non-statutory subject matter. The rejection of claims 1-6 will be traversed, below. However, the present Amendment revises independent claim 7 in response to the rejection. The Amendment also adds a new dependent claim with recitations along the lines of the changes to claim 7, but depending from claim 1.

The Office Action refers to the “Interim Guidelines for Examination of Patent Applications for Subject Matter Eligibility” and comments that the claims merely recite elements or steps for performing mathematical functions without disclosing a practical application with concrete, useful, and tangible results. The Office Action also asserts that they are pre-emptive in any application.

The “Interim Guidelines” now appear in section 2106 of the MPEP. The “Interim Guidelines” make it clear that any process, machine, manufacture, or composition of matter is suitable subject matter for a patent, with three exceptions that have been identified by the courts. These judicial exceptions are laws of nature, natural phenomena, and abstract ideas. But even if the subject matter of a claim falls within one of these judicial exceptions, the claim is still directed to patentable subject matter if it produces a useful, concrete, and tangible result, without entirely pre-empting the law of nature, natural phenomenon, or abstract idea.

The present application discloses several embodiments of an arrangement that can compress audio data received over more than one channel, even if the data has different sampling rates on different channels. Compressing audio data is clearly a useful, concrete, and tangible thing to do.

Claim 1 is an apparatus claim that recites first and second RAMs, first and second registers, and other hardware. The hardware recited in claim 1 cooperates to form a “machine” under 35 USC 101, or possibly a “manufacture.” Anything with a RAM (for example) in it cannot be an abstract idea, a law of nature, or a natural phenomenon. Since the invention defined by claim 1 does not fall in one of the three judicial exceptions, it is not necessary even to consider whether the claim itself contains a suitable expression of a useful, concrete, and tangible result.

Turning now to independent claim 7, which is a method claim, the present Amendment revises claim 7 to provide that the data having a first sampling period is digitized first audio data and the data having a second sampling period is digitized second audio data. The Amendment also revises claim 7 to specify that the output of the cumulative arithmetic unit is first and second audio data in compressed form. It is respectfully submitted that any method (including the method recited in claim 7) that takes audio data and compresses it, has done something useful and concrete, with a tangible result. Moreover, since claim 7 specifies that it is audio data that is compressed, the claim cannot pre-empt an algorithm, since other types of data exist and are subject to compression.

Since independent claims 1 and 7 are directed to patentable subject matter, their dependent claims are also directed to patentable subject matter and therefore need not be further discussed. It is nevertheless noted that new dependent claim 13 provides that the apparatus recited in claim 1 compresses audio data, so claim 13 would be directed to statutory subject matter even if (despite the above argument to the contrary) claim 1 were not.

For the foregoing reasons, it is respectfully submitted that this application is in condition for allowance. Reconsideration of the application is respectfully requested.

Respectfully submitted,



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